

the Examiner.

The Examiner has rejected claims 1 - 3, 6 - 8 and 18 under 35 U.S.C. § 102(b) as being clearly anticipated by U. S. Patent 3,230,544 (MAGER). The Examiner considers the protective helmet taught by MAGER to include a main outer shell 11, a front facial opening, and resilient bending means formed by the elements 31, 32, 37, 47 in the area corresponding to the nape of the user. Accordingly, the Examiner considers that claims 1 - 3, 6 - 8 and 18 read on this structure.

However, even assuming, arguendo, that the structure of MAGER noted by the Examiner includes the features alleged by the Examiner, Applicants point out that the alleged bending means (31, 32, 37, 47) of device of MAGER are not formed unitarily and in one-piece with the main outer shell as now required by claims 1 and 18 as amended above. The newly recited structural arrangement of the bending means (or bending portions) as recited in claims 1 and 18 is clearly shown in Applicants' drawings and is described in the last paragraph on page 4 of Applicants' specification as originally filed. Thus, since MAGER fails to disclose each and every element recited in independent claims 1 and 18, claims 1 and 18 are clearly not anticipated thereby under 35 U.S.C. § 102(b). It follows that claims 2, 3, 6-8 and 18, which depend from claims 1 and 18, also cannot be anticipated by MAGER under § 102(b).

Furthermore, although Applicants submit that it is clear that the device of

MAGER fails to disclose that the alleged bending means thereof are formed unitarily and in one-piece with the main outer shell as now required by claims 1 and 18, Applicants submit that there is also no teaching or suggestion in MAGER to provide such structure. In fact, the device of MAGER is disclosed as having a flap which is hinged to the remainder of the helmet so that the flap can "swing freely away from its normal position" (column 2, line 40), which would teach away from any modification thereof to arrive at Applicants' claimed invention. Thus, for all the above reasons, the Examiner is requested to withdraw the rejection of claims 1-3 and 6-8 and 13 under 35 U.S.C. § 102(b).

The Examiner has also rejected claims 4 and 5 under 35 U.S.C. § 103(a) as being unpatentable over MAGER in view of U.S. Patent No. 5,165,166 (SIMPSON). The Examiner has taken the position that MAGER teaches the helmet structure as claimed, including being formed of a resinous material, except for the particular composite material of claims 4 and 5, and concludes that one of ordinary skill in the art would have found it obvious to form the helmet of MAGER from the composite taught by SIMPSON. However, the patent to SIMPSON does nothing to provide the deficiencies of the helmet of MAGER noted above, and the Examiner's rejection of claims 4 and 5 under 35 U.S.C. § 103(a) must fall for this reason alone.

Furthermore, neither MAGER nor SIMPSON, nor any of the other cited references either teach or suggest Applicants' claimed helmet combination formed from the

materials recited in claims 2-5, nor do they teach or suggest the particular wall structure of the main outer shell recited in claim 6. The applied prior art also fails to teach or suggest Applicants' claimed protective helmet having the particular cutouts recited in claims 7 and 8

Thus, Applicants respectfully submit that each and every pending claim of the present invention meets the requirements for patentability under 35 U.S.C. § 102 and § 103, and respectfully request the Examiner to indicate allowance of each and every pending claim of the present invention.

CONCLUSION

In view of the foregoing, it is submitted that the present amendment is proper and that none of the references of record, either taken alone or in any proper combination thereof, anticipate or render obvious the Applicants' invention, as recited in each of claims 1 - 20. The applied references of record have been discussed and distinguished, while significant claimed features of the present invention have been pointed out.

Accordingly, consideration of the present amendment, reconsideration of the outstanding Office Action, and allowance of the present application and all the claims therein are respectfully requested and now believed to be appropriate.

Any amendments to the claims which have been made in this amendment, and which have not been specifically noted to overcome a rejection based upon the prior art,

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should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

Any comments or questions concerning this application can be directed to the undersigned at the telephone number given below.

Respectfully submitted,
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